

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE VALVE ANTITRUST LITIGATION

CASE NO. C21-0563-JCC

ORDER

This matter comes before the Court on three motions to seal by non-parties Epic Games, Inc. and Microsoft, Inc., along with Plaintiffs Dark Catt Studios Holdings, Inc. and Dark Catt Studios Interactive, LLC (collectively “movants”) (Dkt. Nos. 189, 193, 201). Having thoroughly considered the briefing and the relevant record, the Court hereby GRANTS the motions for the reasons explained herein.

Plaintiffs Wolfire Games, LLC, Dark Catt Studios Holdings, Inc., and Dark Catt Studios Interactive, LLC (collectively “Plaintiffs”) recently moved the Court for the certification of a class of game developers and/or game publishers who paid Defendant for the use or sale of the developers/publishers’ games on Defendant’s game platform. (*See generally* Dkt. No. 181.) That motion, along with various supporting exhibits, included information that the movants now describe as trade secrets, non-public business records, and other confidential information—the dissemination of which would be harmful to movants’ businesses. (*See* Dkt. Nos. 189 at 2–3; 192

1 at 15, 21; 193 at 2; 182-27; 182-48.) This information was produced in accordance with the
2 protective order in this matter (Dkt. No. 95) and was designated for attorneys' eyes only. (*See*
3 *generally* Dkt. Nos. 196, 197.) In addition, an exhibit to the class certification motion contained
4 what Plaintiffs Dark Catt Studios Holdings, Inc. and Dark Catt Studios Interactive, LLC assert is
5 personally identifiable information, specifically, a gamer's username. (*See* Dkt. Nos. 201 at 2,
6 182-74 at 3.) Accordingly, the movants ask the Court to maintain all of this information under
7 seal. (*See generally* Dkt. Nos. 189, 193, 201.)

8 "Historically, courts have recognized a 'general right to inspect and copy public records
9 and documents, including judicial records and documents.'" *Kamakana v. City & Cnty. of*
10 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435
11 U.S. 589, 597 (1978)). As a result, one "seeking to seal a judicial record . . . 'must articulate
12 compelling reasons [to keep a record sealed] supported by specific factual findings.'" *Id.* at 1179
13 (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)).
14 However, courts have created an exception to this standard for materials contained in or
15 referenced in a motion only "tangentially related to the merits of the case," which is often true
16 for non-dispositive motions. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1097
17 (9th Cir. 2016). In such an instance, only "good cause" need be demonstrated, rather than
18 "compelling reasons." *Id.*

19 Here, no party has lodged an opposition to the movants' motions to seal. Therefore, the
20 Court concludes that each have merit, **regardless** of which standard need be applied. *See* LCR
21 7(b)(2). Accordingly, the motions to seal (Dkt. Nos. 189, 193, 201) are GRANTED. The Clerk is
22 DIRECTED to maintain under seal the portions of Docket Numbers 192, 182-27, 182-48, and
23 182-74 described in the movants' motions.

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1 DATED this 19th day of April 2024.

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5 John C. Coughenour
6 UNITED STATES DISTRICT JUDGE
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